
THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

DIAMOND G RODEOS, INC, a Utah
Corporation; STEVE GILBERT, an
individual; and CYNDI GILBERT, an
individual,

Plaintiffs,

v.

BRIAN JAMES GIFFORD, an individual; and
DOES 1-10,

Defendants.

AND RELATED COUNTERCLAIMS

**MEMORANDUM DECISION AND
ORDER OVERRULING OBJECTION**

Case No. 4:22-cv-00089-DN-PK

District Judge David Nuffer
Magistrate Judge Paul Kohler

Defendant Brian Gifford (“Gifford”) filed Defendant’s Objection to Memorandum Decision and Order Adopting Report and Recommendation (“Objection”).¹ The Objection seeks vacatur of the Memorandum Decision and Order Adopting Report and Recommendation (“Order”)² which entered a default judgment against Gifford. For the reasons below, the Objection is OVERRULED and the relief sought is DENIED.

In the Motion, Gifford asserts four arguments, none of which have merit. First, Gifford argues that he has been denied procedural due process, denied a fair adjudication of his case, and that he has not had his side of the case heard.³ Yet Gifford never filed a substantive objection to the Report and Recommendation⁴ that was adopted in the Order⁵ he now objects to. And Gifford did not attend the

¹ [Docket no. 81](#), filed October 4, 2024.

² [Docket no. 78](#), filed October 3, 2024.

³ Objection at 1-2.

⁴ Report & Recommendation, [docket no. 62](#), filed May 6, 2024.

⁵ Memorandum Decision and Order Adopting Report and Recommendation, [docket no. 78](#), filed October 3, 2024.

hearing on the motion seeking sanctions that led to the Report and Recommendation.⁶ If Gifford has not been fully heard, it is because of his failure to follow the rules of procedure, prior court orders, and to fully participate.

Second, Gifford argues that the Plaintiffs did not meet their burden of proof.⁷ The default entry of judgment against Gifford was not entered because the court made a determination on the merits based on the presentation of evidence. Rather, Gifford's failure to follow court orders and participate in accordance with the rules of procedure resulted in terminating sanctions. Gifford's argument about Plaintiffs' burden of proof is irrelevant because Gifford's behavior prevented a fair adjudication on the merits.

Third, Gifford argues about judicial bias.⁸ This argument has already been fully addressed and rejected.⁹ Gifford's argument raises no additional evidence or substantive argument that merits further discussion.

Fourth, Gifford argues he is being denied his right to a jury trial.¹⁰ Gifford argues this right cannot be taken unless "the actions of the party warrant such extreme measures."¹¹ As thoroughly set forth in the Report and Recommendation¹² and adopted in the Order, Gifford's actions warrant terminating sanctions under the applicable law.

⁶ Report and Recommendation at 1-4.

⁷ Objection at 2.

⁸ *Id.*

⁹ Memorandum Decision and Order Denying Motion to Recuse Judge David Nuffer, [docket no. 54](#), filed March 13, 2024.

¹⁰ Objection at 3.

¹¹ *Id.* at 3.

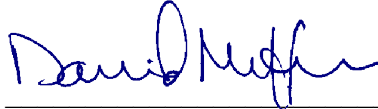
¹² Report and Recommendations at 1-9.

ORDER

For the reasons explained above, IT IS HEREBY ORDERED that the Objection¹³ is
OVERRULED and all relief requested in the Objection is DENIED.

Signed October 7, 2024.

BY THE COURT



David Nuffer
United States District Judge

¹³ [Docket no. 81](#), filed October 4, 2024.